

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NEW YORK LIFE INSURANCE
COMPANY, a New York mutual
insurance company,

Plaintiff-in-Interpleader,

v.

APRIL M. GETTINGS; JOHN L.
TOEVS, as custodian for K.L.G.;
MARA JACOBS, as custodian for
K.L.G.; KURRICK L. GETTINGS,

Defendants-in-Interpleader.

NO: 12-CV-0409-TOR

ORDER GRANTING STIPULATED
MOTION FOR DISBURSAL OF
FUNDS TO TRUST ACCOUNT AND
FOR DISMISSAL OF ACTION

BEFORE THE COURT is the parties' Stipulated Motion for Disbursal of Funds to Trust Account and for Dismissal of Action (ECF No. 36). The Court has reviewed the completed briefing and the record and files herein, and is fully informed.

Plaintiff New York Life Insurance Company filed this diversity based interpleader on June 18, 2012, to resolve competing claims to the proceeds of two

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1 life insurance policies.¹ The proceeds together with accrued interest have been
2 deposited with the Clerk of Court and remain subject to the Court's jurisdiction to
3 apportion.² Defendants-in-Interpleader, April M. Gettings and Kurrick L.
4 Gettings, have now stipulated that this matter has been fully and finally settled by
5 and between the parties and ask the Court to dismiss the action with prejudice, and
6 transfer the funds currently in the registry of the Court in accordance with the
7 stipulation and the parties' agreed order. ECF No. 36-1.

8 A district court may retain jurisdiction over a settlement agreement in the
9 order of dismissal or may incorporate the terms of the settlement agreement in the
10 order of dismissal. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375,
11 381 (1994). It is a district court's prerogative not to retain jurisdiction over the

12 ¹ Defendants-in-Interpleader John L. Toevs and Mara Jacobs, as custodians for
13 Kurrick L. Gettings, have not appeared in this action. However, it is undisputed
14 that Defendant Kurrick L. Gettings is the real party in interest. He reached the age
15 of majority before the settlement agreement was entered into, and is represented by
16 counsel. *See* Wash. Rev. Code § 26.28.10 ("except as otherwise specifically
17 provided by law, all persons shall be deemed and taken to be of full age for all
18 purposes at the age of eighteen years).

19 ² Less an amount awarded to the Plaintiff-in-Interpleader for costs and attorney
20 fees. ECF No. 33.

1 settlement agreement. *Id.* at 381-82. Absent an express retention by a district
2 court of jurisdiction to enforce a settlement agreement reached in a case pending
3 before it, such “enforcement of the settlement agreement is for the state courts,
4 unless there is some independent basis for federal jurisdiction.” *Id.* The Court
5 declines to exercise continuing jurisdiction over the settlement agreement. Indeed,
6 other than determining the proper distribution of the funds in this interpleader
7 matter, the Court does not have an independent basis for exercising federal
8 jurisdiction over the terms of the settlement agreement.

9 **Accordingly, IT IS HEREBY ORDERED:**

- 10 1. The parties’ Stipulated Motion for Disbursal of Funds to Trust Account
11 and for Dismissal of Action (ECF No. 36) is **GRANTED**.
- 12 2. Defendant-in-Interpleader Kurrick L. Gettings’ Motion to Expedite (ECF
13 No. 35) is **GRANTED**.
- 14 3. All past claims, counterclaims and cross-claims of all kinds whatsoever,
15 relating to the above-entitled lawsuit over New York Life insurance
16 policies, shall be **DISMISSED** with prejudice and without cost to either
17 party.
- 18 4. The Clerk of Court is directed to deduct from the income earned on the
19 funds on deposit, a fee as set by the Director of the Administrative Office
20 and authorized by the Judicial Conference of the United States, 28 U.S.C.

§ 1914, and is then directed to disburse to attorney Lawrence L. Tracy
IOLTA Trust Account, 113 West Fourth Avenue, Moses Lake,
Washington, 98837, all remaining funds on deposit.

The District Court Executive is hereby directed to enter this Order, furnish
copies to counsel, disburse the funds, and **CLOSE** the file.

DATED April 18, 2013.



Thomas O. Rice
THOMAS O. RICE
United States District Judge